



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM:

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THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

W.P. (MD) No. 6711 of 2018

and

W.M.P. (MD) Nos. 6489, 6490 and 6493 of 2018

Ramesh

... Petitioner

-Vs-

1. The Passport Issuing Authority,
Barathi Ula Street, Madurai.

2. The Branch Manager,
Indian Overseas Bank,
Manur Branch,
Tirunelveli District.

... Respondents

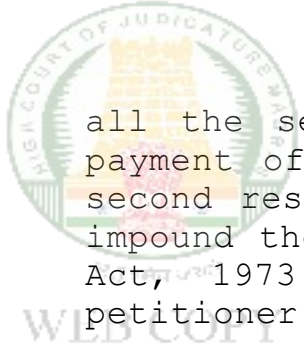
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the second respondent proceedings in letter dated Nil communicated to the petitioner on 23.03.2018 quash the same and consequently directing the second respondent to follow decision of the pending case in S.A.No.144/2018 which is pending before the DRT, Madurai under the SARFAESI Act.

For Petitioner	: Mr.R.M.Arun Swaminathan
For R1	: Mr.V.Kathirvelu, Assistant Solicitor General, assisted by Mr.S.Muthukumar, Standing Counsel.
For R2	: Mr.N.Dilip Kumar, Standing Counsel.

ORDER

This writ petition has been filed challenging the request made by the second respondent bank to the first respondent / passport authority to impound the petitioner's passport for non-payment of a educational loan.

2.The learned counsel for the petitioner submitted that the second respondent bank has no power or authority for requesting to impound the passport for non-payment of any loan amount. If at



all the second respondent has any grievance regarding the non-payment of any loan amount, there are remedies available to the second respondent, but he cannot ask the passport authorities to impound the petitioner's passport, and Section 10 of the Passport Act, 1973 and the passport authorities can not impound the petitioner's passport.

3.Per contra, the learned Standing Counsel appearing for the second respondent submitted that the petitioner obtained education loan from the second respondent, now, there is due of Rs.12,86,518/- (Rupees Twelve Lakhs Eighty Six Thousand Five Hundred and Eighteen Only), already, the second respondent initiated proceedings under the SARFAESI Act, and a notice under Section 13(4) of the Act also issued. Challenging the above notice, the petitioner filed an appeal before the Debt Recovery Tribunal, Madurai, and the same is pending. Now, the petitioner employed in Singapore and another person employed in the Railway Hospital.

4.The learned Assistant Solicitor General for the first respondent submitted that so far, no request has been received from the second respondent. In the event of receiving any request, they will issue proper notice to the petitioner. Thereafter, they will take action.

5.I have heard the submissions made by the learned counsel on either sides, and perused the materials available on record carefully.

6.It is rightly contended by the learned counsel for the petitioner that if the second respondent has any grievance for non payment loan, there are other remedies available to the second respondent. Admittedly, a proceedings has also been initiated under the SARFAESI Act, and the appeal is pending before the Debt Recovery Tribunal. In the above circumstances, the second respondent cannot make any request to the passport authorities to impound the passport. As per Section 10 of the passport Act, it is not one of the ground for impounding passport.

7.At this stage, the learned Standing Counsel for the second respondent submitted that as per Section 25 of the Recovery of Debts and Bankruptcy Act, the second respondent is entitled to approach the concerned Tribunal restraining the petitioner from leaving the country. If the second respondent has any grievance, it is always open to the second respondent to approach the concerned Tribunal, but the second respondent cannot approach the passport authorities seeking for impounding of passport.

<https://hcservices.ecourts.gov.in/hcservices/> 8.In the above circumstances, the impugned notice issued by the second respondent is not valid in the eye of law, accordingly, the impugned order is set aside. This writ petition is allowed.



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No costs.
closed.

Consequently, connected miscellaneous petitions are

Sd/-

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Passport Issuing Authority,
Barathi Ula Street, Madurai.

+1. CC to Mr.R.M.Arun Swaminathan, Advocate SR.No.58509

+1. CC to Mr.S.Muthukumar, Advocate SR.No.58350

+1. CC to Mr.N.Dilip Kumar, Advocate SR.No.58369

W.P(MD)No.6711 of 2018
27.03.2018

Myr

MKV-PN-MM-SAR 1/28.3.2018/3P-5C